IN THE HIGH COURT OF UTTARANCHAL, AT NAINITAL.

Criminal Revision No. (Lodge No. 510/2003)

Arun Kumar S/o Govind Singh,
R/o village Kangari P.S. Shyampur
District Haridwar …Revisionist.

Vs.

1- State of Uttaranchal ,

2-Sunita Kumar W/o Arun Kumar D/o Attar Singh C/o Sashi (Sersa) Ajanta Photo Studio Sati Kund Kankhal Haridwar.

3-Presiding Officer Principal Judge, Family Court Haridwar. ..Respondents.

Hon'ble Irshad Hussain, J.

Heard Sri Vivek Shukla learned counsel for the revisionist.

2- This is a revision under section 379/401 of the Code of Criminal Procedure (for short 'Code') read with section 19(4) of the Family Courts Act against the order dated 31-10-2003 passed by the Principal Judge, Family Court, Haridwar, granting interim maintenance to respondent No.2- wife at the rate of Rs. 1,500/- per month.

3- The learned counsel for the revisionist submitted that considering the take home salary of the revisionist-husband the quantum of interim maintenance is on the higher side. Two minor children are also residing with the revisionist besides his parents. The take home salary of the revisionist is Rs. 4,091/- per month. The respondent No.2 is residing with her sister. Taking into consideration the facts and circumstances of the case it appear that the order has been passed after hearing the parties and, therefore, I do not find any reason to interfere with the discretion exercised by the learned Principal Judge, Family Court, in granting the interim maintenance at the said rate. Moreover the petitioner shall have opportunity to assail the quantum of the maintenance claimed by leading evidence at the time of final disposal of the petition under section 125 of the 'Code' and considering this at this state I do not find any cogent reason to interfere with the discretion exercised by the learned Principal Judge Family Court. It may also be pointed out that the learned Principal Judge shall decide the petition under section 125 of the 'Code' on the basis of the

evidence of the parties, the take home salary of the petitioner-husband and other factors without being guided by the quantum of interim maintenance passed by the said order.

4- In view of above there being no merit in this petition, the same is hereby dismissed in limine.

(Irshad Hussain, J.)

Dated: 2-12-03

ISB